

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

EMERSON CREEK POTTERY, INC.,

Plaintiff,

v.

EMERSON CREEK EVENTS, INC., et al.

Defendants.

Case No. 6:20-cv-54

ORDER

Judge Norman K. Moon

**DEFENDANTS' PROPOSED VERDICT FORM AND SPECIAL
INTERROGATORIES**

Breach of Licensing Agreement Claim (Count IV)

Question 1: Did Plaintiff and Defendants enter into an express licensing agreement? [See Jury Instruction # 13]

Yes ____ No ____

If you answered “yes” to Question 1, please answer questions 3–7. If you answered “no” to Question 1, please go to Question 2.

Question 2: Did Plaintiff and Defendants enter into an implied licensing agreement? [See Jury Instruction # 13]

Yes ____ No ____

If you answered “yes” to Question 2, please answer questions 3–7. If you answered “no” to Question 2, please skip Questions 3–7 and go to Question 9.

Question 3: What names were covered by the parties’ licensing agreement ? (check all that apply)

____ “Emerson Creek”

____ “Emerson Creek Pottery”

____ “Emerson Creek Pottery & Tearoom”

____ “Emerson Creek Events”

Question 4: What services were covered by the licensing agreement? (check all that apply)

____ Gift shop services

____ Restaurant services

____ Events services

Question 5: Did Defendants breach the licensing agreement? [See Jury Instruction # 12]

Yes ____ No ____

Question 6: Did Plaintiff exercise adequate control over the nature and quality of services offered by Defendants under the mark? [See Jury Instruction # 15]

Yes ____ No ____

Question 7: What is the amount of damages for which Defendants are liable for their breach of the licensing agreement? (write the amount you award in the blank provided below) [See Jury Instruction # 23]

Amount (\$): _____

Please continue to Question 9.

**Trademark Infringement Claims and
False Suggestion of Affiliation or Sponsorship Claim (Counts I, II, and III)**

Only answer Question 9 if you find that Defendants did not have a license to use Plaintiff's trademark or that Defendants continued to use Plaintiff's trademark after Plaintiff revoked the license. Otherwise, please continue to END. [See Jury Instruction # 14]

Question 8: Did Defendants infringe Plaintiff's EMERSON CREEK POTTERY trademark? [See Jury Instructions # 16, 17]

Yes ____ No ____

Question 9: Does Plaintiff have a valid trademark in the mark "Emerson Creek"? [See Jury Instruction # 11].

Yes ____ No ____

If you answered "yes" to Question 10, please answer question 11. If you answered "no" to Question 10 and "yes" to Question 9, please answer question 12. If you answered "no" to Questions 9 and 10, please proceed to END.

Question 10: Did Defendants infringe Plaintiff's EMERSON CREEK trademark? [See Jury Instructions #16, 17]

If you answered "yes" to Question 9 or 11, please answer questions 12–15. If you answered "no" to both Questions 9 and 11, please proceed to END.

Question 11: Did Defendants act willfully in infringing Plaintiff's trademarks and with indifference to Plaintiff's trademark rights? [See Jury Instruction # 22]

Yes ____ No ____

Question 12: Did Plaintiff acquiesce to Defendants' infringement of Plaintiff's trademark? [See Jury Instruction # 18]

Yes ____ No ____

Question 13: Did Defendants use the marks "Emerson Creek" or "Emerson Creek Pottery" in a manner likely to cause confusion, or to cause mistake, or to deceive as to the

affiliation, connection, sponsorship, or association between Defendants and Plaintiff?
[See Jury Instruction # 19]

Yes ____ No ____

Question 14: What is the amount of damages Defendants should pay for their infringement of Plaintiff's trademark and their unfair competition and false designation of origin? (write the amount you award in the blank provided below) [See Jury Instructions # 20, 21]

Amount (\$): _____

Signature of Foreperson

Date

END